



City of Marietta

-205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes CITY COUNCIL

R. Steve Tumlin, Mayor
Cheryl Richardson, Ward 1
Grif Chalfant, Ward 2
Johnny Walker, Ward 3
G. A. (Andy) Morris, Ward 4
Reggie Copeland, Ward 5
Michelle Cooper Kelly, Ward 6
Joseph R. Goldstein, Ward 7

Wednesday, March 13, 2019

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Cheryl Richardson, Grif Chalfant, Johnny Walker, G. A. (Andy) Morris, Reggie Copeland, Michelle Cooper Kelly and Joseph R. Goldstein

Also Present:

William F. Bruton, Jr. City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor R. Steve Tumlin called the meeting to order at 7:00 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Morris to give the invocation.

PLEDGE OF ALLEGIANCE:

Everyone was asked to remain standing for the Pledge of Allegiance.

PRESENTATIONS:

20190251 Outstanding Service to the Citizens

Presentation of a Proclamation by Councilmember Andy Morris to Victor Reynolds for his outstanding service to the citizens.

Presented

20190241 Marietta High School Varsity Lacrosse Teams

Recognition of the Marietta High School Lacrosse Boys & Girls Teams to celebrate the inaugural Varsity Lacrosse season.

Presented

20190234 Lifetime Service Award

GMA (Georgia Municipal Association) with Councilmember Joseph Goldstein presenting the Lifetime Service Award to former Councilmember Philip M Goldstein.

Presented

PROCLAMATIONS:**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****SCHEDULED APPEARANCES:****20190164 Scheduled Appearance**

Scheduled Appearance - Drayton Baker

Not Present

20190165 Scheduled Appearance

Scheduled Appearance - Jeff Sloane

Not Present

20190232 Scheduled Appearance

Scheduled Appearance - Larry Wills

Present

20190239 Scheduled Appearance

Scheduled Appearance - Quincy Jenkins.

Present

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Prior to the Consent Agenda, a motion was made by Council member Kelly, seconded by Council member Goldstein, to suspend the rules of order to add an item to the Council agenda to approve the March 13, 2019 actions and minutes of the Special Called Board of Lights and Water. The motion carried by the following vote:

*Vote: 7 – 0 – 0 Approved
(See agenda item 20190268)*

Mayor Pro tem Johnny Walker briefly explained the consent agenda process.

City Attorney Doug Haynie noted the following changes to the consent agenda:

-under Public Works: Agenda item 20180591 remains on consent with an added disclosure by Joseph R. Goldstein.

-under Other Business: Agenda items 20190252, 20190253 and 20190254 were added to the consent agenda.

-under Other Business: Agenda item 20190268, the approval of the BLW Special Meeting minutes were added to the consent agenda.

A motion was made by Council member Kelly, seconded by Council member Richardson, to approve the consent agenda as modified. The motion carried by the following vote:

*Vote: 7 – 0 – 0 Approved
with the following exceptions:
Council member Goldstein opposed to agenda item 20190174 and 20190175.
Council member Goldstein abstaining on agenda item 20180591*

MINUTES:*** 20190217 Regular Meeting - February 13, 2019**

Review and approval of the February 13, 2019 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

MAYOR'S APPOINTMENTS: (for informational purposes only)**CITY COUNCIL APPOINTMENTS:****ORDINANCES:****20190016 Z2019-05 [REZONING] LAMBERTO CAMPOS**

Z2019-05 [REZONING] LAMBERTO CAMPOS is requesting the rezoning of 0.062 acres located in Land Lot 1216, District 16, Parcel 0740 of the 2nd Section, Cobb County, Georgia, and being known as 386 Fort Street from R-4 (Single Family Residential - 4 units/acre) to R-4 (Single Family Residential - 4 units/acre) with a variance to increase density to 16.2 units/acre. Ward 5A.

If Council approves the rezoning, the following variances would be incorporated as conditions of zoning:

Variances:

1. Variance to increase the density from 4 units/acre to 16.2 units/acre. [§708.04 H]
2. Variance to reduce the minimum lot size from 7,500 sq.ft. to 2,700 sq.ft. [§708.04 H]
3. Variance to reduce the minimum lot width (Fort Street) from 75' to 42'. [§708.04 H]
4. Variance to reduce the front setback from 25' to 10'. [§708.04 H]
5. Variance to reduce the major side setback from 25' to 10'. [§708.04 H]
6. Variance to reduce the minor side setback from 10' to 7'. [§708.04 H]
7. Variance to reduce the rear setback from 30' to 10'. [§708.04 H]

City Attorney Doug Haynie opened the public hearing and called forward those wishing to speak.

Rusty Roth, Development Services Director, presented information regarding the request to rezone property at 386 Fort Street from R-4 (Single Family Residential - 4 units/acre) to R-4 (Single Family Residential - 4 units/acre) with a variance to increase density to 16.2 units/acre.

Gizella Campos, daughter of the owner of the property, requested rezoning of the subject property with an increase in density in order to build a new single-family residence on the 2,700 square foot parcel. The new home would maintain the Fort Street address and address parking issues with a driveway and garage.

Seeing no one else wishing to speak, the public hearing was closed.

A motion was made by Council member Copeland, seconded by Council member Walker, to approve the rezoning request for property located at 386 Fort Street from R-4 (Single Family Residential - 4 units/acre) to R-4 (Single Family Residential - 4 units/acre) with a variance to increase density to 16.2 units/acre, with the following variances would be incorporated as conditions of zoning:

Variance to increase the density from 4 units/acre to 16.2 units/acre.

Variance to reduce the minimum lot size from 7,500 sq.ft. to 2,700 sq.ft.

Variance to reduce the minimum lot width (Fort Street) from 75' to 42'.

Variance to reduce the front setback from 25' to 10'.

Variance to reduce the major side setback from 25' to 10'.

Variance to reduce the minor side setback from 10' to 7'.

Variance to reduce the rear setback from 30' to 10'.

The motion carried by the following vote:

Vote: 5 – 2 – 0

Approved

Voting Against: Cheryl Richardson and Andy Morris

20190017

Z2019-06 [REZONING] POLK STREET RESIDENTIAL LLC

Z2019-06 [REZONING] POLK STREET RESIDENTIAL LLC is requesting the rezoning of 8.96 acres located in Land Lot 1224, District 16, Parcels 0530, 0430, 0460, 0420, 0450, 0480, & 1000 of the 2nd Section, Cobb County, Georgia, and being known as 807, 811, 819, 871, 875, & 931 Polk Street, and 103 Mountain View Road from R-1 (Single Family Residential/Agriculture) and R-4 (Single Family Residential - 4 units/acre) to PRD-SF (Planned Residential Development - Single Family). Ward 3A.

If Council approves the rezoning, the following stipulations would be incorporated as conditions of zoning:

Stipulations:

- 1. Letter of stipulations from Moore, Ingram, Johnson & Steele, to Shelby Little, Planning & Zoning Manager, for the City of Marietta, dated March 4, 2019.*

Mayor Tumlin stated that a letter was received from the applicant requesting to table this matter.

A motion was made by Council member Morris, seconded by Council member Walker, that this matter be Tabled. The motion carried by the following vote:

Vote: 6 – 0 – 1

Tabled

Abstaining: Cheryl Richardson

20190074

Z2019-08 [REZONING] KENNESTONE HOSPITAL INC

Z2019-08 [REZONING] KENNESTONE HOSPITAL INC is requesting the rezoning of approximately 3 acres located in Land Lot 1002, District 16, Parcel 0010 of the 2nd Section, Cobb County, Georgia, and being known as 1045 Cobb Parkway North from OI (Office Institutional) to HI (Heavy Industrial). Ward 5B.

City Attorney Doug Haynie opened the public hearing and called forward those wishing to speak.

Rusty Roth, Development Services Director, presented information regarding the request to rezone property at 1045 Cobb Parkway North from OI (Office Institutional) to HI (Heavy Industrial).

Richard Calhoun, attorney for the applicant, requested rezoning of the subject property from OI to HI to be in a more appropriate zoning classification for the existing use as a distribution center.

Seeing no one else wishing to speak, the public hearing was closed.

A motion was made by Council member Kelly, seconded by Council member Chalfant, to approve the rezoning request for property located at 1045 Cobb Parkway North from OI (Office Institutional) to HI (Heavy Industrial). The motion carried by the following vote:

Vote: 7 – 0 – 0

Approved

20190076

Z2019-09 [REZONING] WALTER K. CARLISLE

Z2019-09 [REZONING] WALTER K. CARLISLE is requesting the rezoning of approximately 0.14 acres located in Land Lot 1147, District 16, Parcel 0420 of the 2nd Section, Cobb County, Georgia, and being known as 379 Campbell Hill Street from NRC (Neighborhood Retail Commercial) to R-4 (Single Family Residential - 4 units/acre). Ward 4B.

If Council approves the rezoning, the following stipulation and variances would be incorporated as conditions of zoning:

Stipulation:

1. Applicant must obtain a Certificate of Occupancy.

Variances:

- 1. Variance to reduce the minimum lot size from 7,500 sq. ft. to 5,660 sq. ft. [§708.04 H]*
- 2. Variance to reduce the minimum house size from 1,200 sq. ft. to approximately 750 sq. ft. for the existing principal structure. [§708.04 H]*
- 3. Variance to reduce the front yard setback for the existing principal structure to remain as-is. [§708.04 H]*
- 4. Variance to reduce the side and rear yard setbacks for the barn and shed to remain as-is. [§708.04 F.1.]*
- 5. Variance to allow the area of the accessory structures' footprint to exceed more than 50% that of the principal structure. [§708.04 F.5]*
- 6. Variance to allow density of 7.2 units per acre.*

City Attorney Doug Haynie opened the public hearing and called forward those wishing to speak.

Rusty Roth, Development Services Director, presented information regarding the request to rezone property at 379 Campbell Hill Street from NRC (Neighborhood Retail Commercial) to R-4 (Single Family Residential - 4 units/acre).

Walter Carlisle, owner of the property, requested rezoning the subject property from NRC to R-4 to use the property as a residence. The parcel has previously been used commercially as art studios and retail gift shops. Currently, the property is being used as a residence, but will require rezoning for the applicant to continue to use as a residence.

Discussion was held by Council regarding a complaint of excess debris on the property. Mr. Roth explained that the property would have to be brought up to code prior to obtaining a certificate of occupancy.

Seeing no one else wishing to speak, the public hearing was closed.

A motion was made by Council member Kelly, seconded by Council member Walker, to approve the rezoning request for property located at 379 Campbell Hill Street from NRC (Neighborhood Retail Commercial) to R-4 (Single Family Residential - 4 units/acre), with the following stipulation and variances would be incorporated as conditions of zoning:

- 1. Variance to reduce the minimum lot size from 7,500 sq.ft. to 5,660 sq.ft.*
- 2. Variance to reduce the minimum house size from 1,200 sq.ft. to approximately 750 sq.ft. for the existing principal structure.*
- 3. Variance to reduce the front yard setback for the existing principal structure to remain as-is*
- 4. Variance to reduce the side and rear yard setbacks for the barn and shed to remain as-is.*
- 5. Variance to allow the area of the accessory structures' footprint exceed more than 50% that of the principal structure.*
- 6. Variance to allow one house on 0.14 acres (7.2 units/acre).*

*The following stipulation is incorporated as a condition of zoning:
Applicant must obtain a certificate of occupancy.*

An Amendment was made by Council member Kelly, seconded by Council member Walker, to approved the rezoning, with the variances listed and the stipulation amended to read, "A certificate of occupancy for residential use be obtained within thirty (30) days from the Building Inspections Division to include the correction of any housing violations identified by Code Enforcement." The motion carried by the following vote:

*Vote: 5 – 2 – 0 Approved
Voting Against: Andy Morris and Cheryl Richardson*

Mayor Tumlin called for a vote on the original motion, as amended.

The motion was made by Council member Kelly, seconded by Council member Walker, to approve the rezoning request for property located at 379 Campbell Hill Street from NRC (Neighborhood Retail Commercial) to R-4 (Single Family Residential - 4 units/acre), with the variances and amended stipulation.

The motion carried by the following vote:

Vote: 5 – 2 – 0 **Approved as Amended**
Voting Against: Andy Morris and Cheryl Richardson

20190083

Z2019-12 [REZONING] CITY OF MARIETTA

Z2019-12 [REZONING] CITY OF MARIETTA is requesting the rezoning of property located in Land Lot 1237, District 16, 2nd Section, Marietta, Cobb County, Georgia and being known as Coggins Place right-of-way from unzoned to CRC (Community Retail Commercial). Ward 7A.

City Attorney Doug Haynie opened the public hearing and called forward those wishing to speak.

Rusty Roth, Development Services Director, presented information regarding the request to rezone property at Coggins Place right-of-way from unzoned to CRC (Community Retail Commercial).

Seeing no one else wishing to speak, the public hearing was closed.

A motion was made by Council member Chalfant, seconded by Council member Richardson, that this matter be Approved. The motion carried by the following vote:

Vote: 7 – 0 – 0 **Approved**

CITY ATTORNEY'S REPORT:

* **20190218** **Denial of Claim**

Denial of Claim for Cindy Faison.

This Matter was Approved to Deny on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved to Deny Claim**

- * **20190219** **Denial of Claim**

Denial of Claim for George Ezikpe and Janelle Calder.

This Matter was Approved to Deny on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved to Deny Claim**

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Johnny Walker, Chairperson

- * **20190166** **Annual Action Plan**

Motion to approve the Community Development Block Grant Program (CDBG) Annual Action Plan for Program Year 2019.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

2. Finance/Investment: Joseph R. Goldstein, Chairperson

- * **20190180** **Appropriate supplemental funds for Rottenwood Creek Trail Phase I**

Motion to approve the amendment to the Fiscal Year 2019 budget to appropriate reimbursable grant funds from GDOT for the Rottenwood Creek Trail Phase I. This is a supplemental agreement augmenting funds for Engineering commitments.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

3. Judicial/Legislative: G. A. (Andy) Morris, Chairperson

- 20181295** **Code Amendment - Noise Ordinance**

Motion to approve the amendments to §10-6, Noise, to reflect changes in Fireworks Regulations.

First Reading
Public Hearing

Motion to approve the amendments to §10-6, Noise, to reflect changes in Fireworks Regulations.

The motion was made by Council member Richardson, seconded by Council member Goldstein, that this matter be Approved. The motion carried by the following vote:

Vote: 7 – 0 – 0 Approved

Motion to approve the required waiver set forth in 1-4-040 (L) whereby the City Council gives its unanimous consent to authorize the adoption of this Resolution at this City Council meeting without the necessity of placing this matter on the following regular City Council meeting. (This waiver requires the unanimous consent of the City Council).

The motion was made by Council member Goldstein, seconded by Council member Richardson, that this matter be Approved. The motion carried by the following vote:

Vote: 7 – 0 – 0 Approved

20190066

Charter amendment concerning Fire and Police Civil Service System

Motion approving an ordinance amending the City Charter, Section 4.13, et seq., related to the Fire and Police Civil Service System to comply with Delay v. Sutton, 304 Ga. 338 (2018) and other administrative updates. The case requires council appointment of all board members. The Civil Service Board respectfully forwards recommended changes pending approval of the City Attorney.

Second Reading
Public Hearing

A motion was made by Council member Kelly, seconded by Council member Goldstein, that this matter be Approved. The motion carried by the following vote:

Vote: 7 – 0 – 0 Approved

* **20190174**

Revised Detailed Plan - 1825 Stilesboro Road Elevations

Motion to approve the attached house elevations for the single family detached development at 1825 Stilesboro Road.

This Matter was Approved on the Consent Agenda.

Vote: 6 – 1 – 0 Approved
Voting Against: Joseph R. Goldstein

* **20190175** **Revised Detailed Plan - Heritage Ridge**

Motion to approve the following changes to the detailed plan for Heritage Ridge (1725 White Circle):

1. House elevations for 24' wide, single-family detached homes dated 2/15/2019 with the stipulation that the first floor, side elevations contain a window or false-shuttered window to break up the large blank wall.
2. There shall be a maximum of 20' horizontally and vertically between architectural fenestration elements (windows, false shutters, change of material, etc.). This will eliminate large expanses of a single material without a break and add architectural interest to the elevations.
2. Reduction of the front setback to 18' from the back of side or back of curb (if no sidewalk is present).
3. Reduction in the minimum square footage for Lots 18, 19 and 27-32 from 2,200 square feet to 1,800 square feet.

This Matter was Approved on the Consent Agenda.

Vote: 6 – 1 – 0 **Approved**
Voting Against: Joseph R. Goldstein

4. Parks, Recreation and Tourism: Michelle Cooper Kelly, Chairperson

* **20190189** **2nd Annual Marietta Mountain to River Trailfest Requests**

Motion authorizing The Marietta Arts Council, in partnership with the Marietta Welcome Center, requests approval to place artwork on public property for the purpose of conducting the 2nd Annual Marietta Mountain to River TrailFest scheduled for Saturday, May 11, 2019 from 11 am to 7 pm with a rain date of Sunday, May 12, from 12 noon to 5 pm as follows:

- 1) Short-term art installations along the trail to remain up to one week.
- 2) A photo fence gallery comprised of panels that are hung on the fence separating the trail from the railroad tracks displayed 60 days from May 8 until July 7th.
- 3) A short-term light installation on the pedestrian bridges over North and South Marietta Pkwy.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20190190** **Tourism Funding for the 2019 Mountain to River TrailFest**

Motion approving FY'19 supplemental tourism funding in the amount of \$13,360 to the Marietta Arts Council, in partnership with the Marietta Visitor's Bureau, to assist with the 2nd Annual Mountain to River TrailFest. An amount of \$8,562 is approved for a marketing campaign with the remaining amount designated to reimburse the City for services provided.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

5. Personnel/Insurance: Cheryl Richardson, Chairperson

6. Public Safety Committee: Reggie Copeland, Chairperson

*** 20190153 Donation to Police Department-The Corn Cousins**

Motion to approve for the Police Department to receive and use a \$5,000.00 donation from The Corn Cousins to assist with the police department's funding of the Narcan program.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

7. Public Works Committee: Grif Chalfant, Chairperson

*** 20190058 Locust Street Speed Study**

Motion to authorizing the installation of two driver feedback signs on Locust Ave.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20190195 Powder Springs Rd Utilities**

Motion authorizing variance from the underground utility's ordinance allowing a new utility pole at the rear property line of 601 and 609 Powder Springs Road. This motion does not grant a perpetual variance. Marietta Power must relocate underground at their expense if other utilities at the location are moved underground.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20180591 Downtown Dumpsters**

Motion authorizing Public Works to proceed with the installation of enclosures around the downtown dumpsters located at 32 Hansel St, 28 Whitlock St, and 86 Anderson St.

Council member Goldstein disclosed that he, his family and/or entities that he and/or his family members own or have an interest in, own property in the Central Business District (CBD) and the Marietta Downtown Solid Waste District.

This Matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 1 **Approved**
Abstaining: Joseph R. Goldstein

OTHER BUSINESS:

* **20190235** **Cobb County Tax Commissioner’s Certification of Agreement**

Motion to approve the Cobb County Tax Commissioner’s Certification of Agreement for the Allocation and Distribution of Proceeds from the 2019 Title Ad Valorem Tax (TAVT).

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20190252** **148 S. Fairground Street**

Motion authorizing acquisition of a portion of property and easements at 148 S. Fairground Street from Humane Society of Cobb County Inc. for the Fairground St - South Marietta Parkway to Roswell Street (Fairground B) Project for F.M.V. of \$500.00 with attached stipulations.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20190253** **591 Powder Springs Street**

Motion to authorize the acquisition of property owned by Garrison Springs Property, LLC on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20190254 Sale of Property at 1101 Powder Springs Street**

Motion to direct City staff to commence the process of advertising approximately 1.00± acre of land for sale at 1101 Powder Springs Street within the City of Marietta. Said sale will be subject to the restriction that the property will only be used for food service. As part of the advertisement, the City shall prepare a more detailed survey of the property and set a minimum price on the property. The City shall have the right to reject any and all bids prior to the acceptance of a contract. The City shall comply with Georgia law regarding the sale of public property. Any contract is subject to review by the Mayor and Council for the City of Marietta.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

20190224 Councilmember Reggie Copeland Update on Housing Day at the Capital 2019

Councilmember Reggie Copeland to discuss and present a synopsis from attending Housing Day at the Capital on Thursday, February 27, 2019 and recognizing those who also attended.

Requested by Councilmember Reggie Copeland

Presented

* **20190236 BLW Actions of March 7, 2019**

Review and approval of the March 7, 2019 actions and minutes of Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20190268 BLW Actions of March 13, 2019**

Review and approval of the March 13, 2019 actions and minutes of the Special Called Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

UNSCHEDULED APPEARANCES:

ADJOURNMENT:

The meeting was adjourned at 8:06 p.m.

Date Approved: April 10, 2019

R. Steve Tumlin, Mayor Tumlin

Attest: _____
Stephanie Guy, City Clerk